

REMARKS

The Office Action rejected claims 1-32 based on the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-93 of U.S. Pat. No. 6,613,059. Applicants respectfully disagree. However, solely in an effort to expedite prosecution of this case, and not as an admission as to the propriety of the rejection or the independence of the two applications, applicants herein submit a terminal disclaimer. See *Pharmacia Corp. v. Par Pharmaceutical, Inc.*; 417 F.3d 1369; 2005 U.S. App. Lexis 16690 (Fed. Cir. 2005). As a result, it is respectfully submitted that the obviousness-type double patenting rejection should be withdrawn.

Claims 1, 9, 10, 11, 18, 28 and 32 were rejected under 35 U.S.C. Section 102 (b) as being anticipated by Sander (U.S. Pat. No. 5,374,268). Sander discloses a device for repairing torn tissue or muscle such as the meniscus of the knee. A Sander device consists of a pair of needles 12 detachably connected to a pair of barbed anchors 14. The anchoring members are joined by a suture 16, which together with the anchors “serve to maintain the tear at close approximation”. The suture shown in Figures 1-2 is generally U-shaped. It is clearly not a “loop” as set forth in the rejected claims.

Claim 2 was not rejected over the art of record. The language of claim 2 is herein placed in claim 1. This is believed to render claim 1 patentable and all claims dependent upon claim 1. Claims 24, 26 and claims 33-35 were also not rejected over a prior art document. These formerly dependent claims are herein placed in independent form.

The present amendments are made solely in order to expedite prosecution of the pending claims.

A petition for a three (3) month extension of time under 37 C.F.R. 1.136(a) has been filed with this amendment.

An information disclosure statement and the above-identified terminal disclaimer also accompany this amendment. Please charge the fee of \$180.00 for the submission of this information disclosure statement to Deposit Account No. 13-2546.

If the Examiner comes to believe that a telephone conversation may be useful in addressing any remaining open issues in this case, the Examiner is urged to contact the undersigned agent at 763-391-9661.

Please charge the fee of \$ 130.00 for the terminal disclaimer to Deposit Account No. 13-2546.

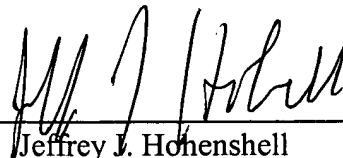
Please charge the fee of \$1,020.00 for the petition for a three month extension of time to Deposit Account No. 13-2546.

After this amendment, there are six independent claims in this case. This leaves three independent claims in excess of three. Please charge the fee of \$600.00 pursuant to 37 C.F.R. Section 1.16(h) for the addition of the new independent claims to Deposit Account No. 13-2546.

Please charge any additional required fees or credit any overpayment to Deposit Account No. 13-2546.

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By



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